

EVALUATION OF THE DONABLE SURPLUS
PROPERTY PROGRAM

TWENTIETH REPORT

BY THE

COMMITTEE ON GOVERNMENT
OPERATIONS



JUNE 28, 1962.—Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 28, 1962.

HON. JOHN McCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: By direction of the Committee on Government Operations, I submit herewith the committee's 20th report to the 87th Congress. The committee's report is based on a study made by its Special Donable Property Subcommittee.

WILLIAM L. DAWSON, *Chairman.*

LETTER OF TRANSMITTAL

Honorable Henry H. Hays
Washington, D.C., June 12, 1922.

Hon. John M. McCarty
Speaker of the House of Representatives
Washington, D.C.

Dear Mr. Speaker: By direction of the Committee on Finance and Operations, I submit herewith the committee's report to the 87th Congress. The committee's report is based on a study made by its Special Investigative Subcommittee.

Very respectfully,
WILLIAM L. HAYSON, Chairman

Union Calendar No. 803

87TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } No. 1943

EVALUATION OF THE DONABLE SURPLUS PROPERTY PROGRAM

JUNE 28, 1962.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DAWSON, from the Committee on Government Operations, submitted the following

TWENTIETH REPORT

BASED ON A STUDY BY THE SPECIAL DONABLE PROPERTY SUBCOMMITTEE

On June 28, 1962, the Committee on Government Operations had before it for consideration a report entitled "Evaluation of the Donable Surplus Property Program." Upon motion made and seconded, the report was approved and adopted as the report of the full committee. The chairman was directed to transmit a copy to the Speaker of the House.

GENERAL STATEMENT

The Special Subcommittee on Donable Property held detailed hearings on a bill, H.R. 3322, on February 15, 17, and 21, 1955¹ and issued a favorable report thereon. The main purpose of the hearings was to consider a complication that had developed whereby the Department of Defense (DOD), which generates over 90 percent of all surplus personal Federal property, had incorporated many billions of such property, useful and needed for education and health purposes into stock fund corporations and then contended that it could not be transferred to other agencies without cost nor donated despite specific existing law² for purposes of education and health as to do so would impair the stock fund corporations.

The Congress by unanimous vote in both Houses³ in Public Law 84-61 sustained the conclusion that surplus property whether or not

¹ H. Rept. 206, 84th Cong., see also S. Rept. 351, 84th Cong.

² Public Law 81-152, sec. 203. See hearings, p. 140.

³ See p. 3093, Congressional Record, Mar. 17, 1955 for debate in House of Representatives. See p. 6632, Congressional Record, May 19, 1955 for debate in Senate.

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in a working capital or similar fund if usable and needed for purposes of education and health as determined by the Secretary of Health, Education, and Welfare was donable to eligible institutions.

HEARINGS TO EVALUATE DONABLE PROGRAM

On April 3, 1962, the subcommittee held hearings to evaluate the effectiveness of the donable program and to receive recommendations to improve its effectiveness. These hearings are referenced as "Hearings" in this report.

The following witnesses were asked to testify:

Hon. Ivan A. Nestingen, Under Secretary, Department of Health, Education, and Welfare.

Hon. Bernard L. Boutin, Administrator, General Services Administration.

Hon. Paul H. Riley, Deputy Assistant Secretary of Defense.

Dr. Alan S. Wilson, vice chancellor for administration, University of Hartford.

Wakefield B. Walker, president, National Association of State Agencies for Surplus Property.

Frank M. Brewster, director, Norfolk County Schools, Norfolk, Va.

Herbert J. Waters, Assistant Administrator, Office of Material Resources, Agency for International Development.

SURPLUS PERSONAL PROPERTY STATUTES

Prior to World War I the Federal agencies generated small amounts of surplus personal property and this was disposed of under general statutes providing, in essence, that since the property does not belong to a specific agency that the proceeds from its sale should be deposited to miscellaneous receipts of the Treasury as soon as possible and without reduction so as not to augment agency funds but also to make the receipts available for appropriation for purposes approved by the Congress.⁴ This is consonant with the concept that agencies as a general rule should obtain funds through direct appropriation and not by their own actions.

Specific statutory provisions were not made during World War I for the disposal of the large volume of surplus property that would be available at the war's end. It was not until after the termination of World War I that President Wilson issued an order dealing with the war surplus property.⁵ This order directed that surplus material, supplies, and equipment should be transferred to the Secretary of the Treasury for reissue to other Government establishments.

The large emergency programs of the 1930's developed sizable quantities of surplus property, and World War II and the cold war have continued the generation at the rate of several billions annually.⁶ Holding agencies, as might be expected, confuse stewardship with ownership and at times choose to believe that they own, rather than hold, property in their custody and conceive various ways of transmuting unneeded portions into cash for purposes which may or may not be specifically authorized and programed. For this reason there was a strong effort by the Bureau of the Budget in the 77th and 78th Congresses to treat transferred property as the equivalent of cash and

⁴ See Rev. Stat. 3617, 3618, 3678, 3679.

⁵ Executive Order 3019, dated Dec. 3, 1918.

⁶ Hearings, p. 92.

to account for it in the budget and appropriation process to prevent augmentation of agency appropriations.⁷

Since World War I the Congress has enacted many pieces of legislation designed to make surplus personal property available to education and health institutions.⁸

THE SURPLUS PROPERTY ACT OF 1944, PUBLIC LAW 457, 78TH CONGRESS,
2D SESSION

This was an interim statute developed during World War II and due to "expire at the end of three years following the date of the cessation of hostilities in the present (World War II) war". Section 13 of the act provided for disposals of property to local governments and nonprofit institutions. Large amounts of property were donated to various recipients under a complicated system of priorities and preferences that delayed disposal action and increased administrative costs.

PRESIDENT'S MESSAGE OF MARCH 5, 1948⁹

On March 5, 1948 the President, in a message to Congress, stated:

The Surplus Property Act was not designed to be permanent property management legislation. Rather, its purpose was to achieve a number of special objectives which would make the disposal of the huge war surpluses a constructive force in demobilization and reconversion.

An effective job has been done in achieving these objectives. Disposal operations have been carried on without the uncontrolled dumping of surplus stocks which would have created hazards to business and employment. Many thousands of veterans have been assisted in establishing or improving their own business, professional, and agricultural enterprises. The competitive position of small business has been protected and strengthened. State and local governments and schools throughout the country have received substantial benefits. Our surplus property abroad has been disposed of in a manner which would make the greatest contribution to world recovery efforts.

He also stated:

Furthermore, disposal costs are held at high levels by the rigid priority and preference provisions of the present law. Unless the law is changed, we will soon reach the point at which it will cost the Government more to dispose of these goods than it receives from their sale. We should therefore simplify the disposal procedure and make possible reduced costs by providing for the elimination of these cumbersome provisions * * *

The President specifically recommended to the Congress that permanent legislation be enacted to terminate the War Assets Administration and transfer to a permanent agency the function of liquidating the remaining domestic surplus war property. He also recommended that the priorities and preference requirements of the Surplus Property Act of 1944 applying to personal property be eliminated.

⁷ See H.R. 2795 and hearings, 78th Cong., 1st sess.

⁸ Hearings, pp. 1-2.

⁹ H. Doc. 558, 80th Cong., 2d sess.

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FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT ¹⁰

An administration bill ¹¹ to provide permanent property management legislation pursuant to the President's message was submitted to the Congress but made no provision for donations of surplus property to education or other public purposes. The Congress, however, after considering the matter carefully decided otherwise and provided that surplus personal property usable and needed for purposes of education would be donated for such use.¹² In 1950 the Congress again considered the matter and authorized donations for purposes of public health ¹³ and in 1955 civil defense units were added as recipients.¹⁴

PUBLIC LAW 61, 84TH CONGRESS

From the enactment of Public Law 61 (McCormack Act) on June 3, 1955 through June 30, 1961, surplus personal property in the amount of \$1.9 billion ¹⁵ has been donated to the States and possessions, for purposes of education, health, and civil defense.

In the current fiscal year (1962) it is anticipated that the amount of surplus personal property to be donated will be \$386 million with 73 percent going to educational purposes, 16 percent to civil defense and 11 percent to health institutions.¹⁶

As to the value of the donable program, the Secretary of the Department of Health, Education, and Welfare stated "the surplus property program has become one of the largest single sources of Federal aid to schools."

Representatives of the Department of Health, Education, and Welfare (HEW), educators, and others stress the point, however, that the real value of the donable program cannot be judged by the acquisition cost of the items donated to institutions of health, education, and civil defense. They state that the property is of inestimable value and often serves multiple purposes. Property classified as nonreparable by Federal agency standards may be repaired, rebuilt, modified, or maintained as a part of necessary training for students in many schools and then the end item becomes a usable piece of equipment to facilitate institutional work. In some cases the instructors themselves receive valuable training through the experience gained in modifying or adapting complex items of equipment for educational purposes.¹⁷ Innumerable examples of good utilization of surplus items have been brought to the attention of the subcommittee thus illustrating the value of the donable program.¹⁸

BILLS TO EXPAND THE DONABLE PROGRAM

During the current Congress 43 bills, most of which would expand the program to other categories of recipients such as municipalities, boys' ranches, public recreation facilities, certain welfare agencies, and so forth, have been introduced and referred to the subcommittee.

¹⁰ Public Law 81-152.

¹¹ H. R. 6276 and S. 2754, 80th Cong., 2d sess.

¹² Public Law 81-152, sec. 203(j) see hearings p. 140.

¹³ Public Law 81-754.

¹⁴ Public Law 84-655.

¹⁵ Hearings, p. 9.

¹⁶ Ibid, p. 4.

¹⁷ Ibid, p. 30.

¹⁸ Ibid, pp 29-73; 74.

The administration's position on these bills is consistent with that of previous administrations; namely, that expansion of the program to other categories of donees should not be done without the most mature consideration as expansion of the program would: (a) again lead to an expensive system of priorities and preferences as previously provided in the Surplus Property Act of 1944; (b) dilute the current program for education, health, and civil defense at a time when the present 254,000 eligible recipients need more property; (c) make it difficult, if not impossible, to differentiate between the relative merits, of the many possible categories of donees that might be included¹⁹; and (d) delay agency disposal programs, especially in the Department of Defense, to the detriment of their missions.

ADMINISTRATIVE ACTIONS AFFECTING THE DONABLE PROGRAM

Despite the hold-the-line position of the Congress and the present and past administrations there has been a constant trend to add donees through administrative action and to divert property usable and needed for education, health, and civil defense units to other purposes or to convert it into cash. Included in these actions are:

1. Donations of surplus personal property to educational activities of special interest to the Department of Defense;
2. Transfers of excess personal property to forestry, soil conservation, and State road agencies;
3. Retail sales of personal property at military installations to military personnel and the public;
4. Use of automotive, office equipment, and other property for trade-in purposes in lieu of cash.

The increasing use of these practices to make excess and surplus personal property available to other than eligible donees specifically named by the Congress, coupled with a decrease in the amount of available surplus property, has caused concern to this subcommittee since more than 60 percent of the 254,000 eligible institutions in the United States rely on the use of surplus personal property on a continuing basis. The unavailability of funds means that in many cases institutions must continue to be sustained in large part through the use of surplus material, and have organized for the purpose. In many States more and better trained personnel have been provided for the administration of the program, special warehousing and other facilities have been added and, in some cases, trucks have been provided to distribute the material to the donees. These and other factors were convincing to the subcommittee that the program should be evaluated under current conditions.

CONGRESSIONAL AUTHORITY

The corrective action taken by the Congress in 1955 illustrates the use of its authority under the Constitution to "dispose of and make all needful rules and regulations respecting the territories or other property belonging to the United States."²⁰

Under this authority which is "vested in Congress without limitation"²¹ rests the responsibility to decide how best, in the public interest, to dispose of unneeded Federal property. Congress must deter-

¹⁹ Hearings, p. 8.

²⁰ U.S. Constitution, art. 4, sec. 3, par. 2.

²¹ *U.S. v. Gratiot* (39 U.S. 526, 536, 537 (1840)).

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mine whether it is more in the public interest to sell the property—usually at a small return on the cost; donate it for public use; destroy it to prevent impairment to industry and employment or to abate a hazard; exchange it in lieu of cash as part payment for needed items; abandon it in certain instances; make it available as contributions to Federal and State cooperative projects such as forestry, soil conservation, road, and airports; make it available for foreign aid programs in lieu of buying new property; or donate it to educational activities of special interest to the military agencies such as military academies, or otherwise.

ADMINISTRATION OF THE DONABLE PROGRAM

It was the intent of the Congress to make needed and useful surplus personal property available to eligible donees without cost except for the cost of care and handling.²²

The fullest benefits possible from the donated property should be made available to the educational institutions, health institutions, and civil defense units with a minimum of necessary administration costs at both the Federal and State levels. This is particularly true in States that assess a handling or surcharge on the donated property in order to finance operations.

From time to time the subcommittee has been aware of charges made that the handling costs in some States were out of line and should be reduced. Accordingly, the former chairman of the subcommittee directed a letter on August 22, 1961, to the Secretary of Health, Education, and Welfare²³ asking that a comprehensive study be made of all direct and indirect costs by the States in administering the program. The report of findings²⁴ indicates the average cost to be less than 4 percent. The average, of course, does not tell the full story as the costs in some States are much higher. It is expected that responsible State authorities will carefully review the cost statistics and take appropriate corrective action to reduce such costs as are out of line.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

1. The donable program has been of inestimable value especially to educational activities at a time of great national need. It has often enabled them to expand their courses or to teach courses not otherwise possible.

During the 6-year period, July 1, 1955, to June 30, 1961, surplus personal property which cost the Government \$1.9 billion was transferred to education, health, and civil defense units of the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. Schools received about 73 percent of the property, health institutions 11 percent, and civil defense units 16 percent.

Had the property been sold, the return in cash would have been but a few cents on the cost dollar.

Neither the cost nor the sale value of the property reflects its real value to the donee institutions since it often serves dual or multiple purposes, first, for training through repairing, rebuilding, modifying, or maintaining and then for actual use. Many scrap and salvage

²² Public Law 81-152, sec. 203(j)(1). Hearings, p. 140;

²³ Hearings, p. 106.

²⁴ Ibid, p. 107 on.

items by Government standards and salable only for material content are needed for training purposes with abundant student labor.

Despite the large amount of surplus property transferred to eligible donees, the needs continue to expand with the growing and shifting population, the complexity of requirements especially for education, and the shortage of the tax dollar for purchases of new items.

More than 60 percent of the 254,000 eligible units including 97,500 elementary schools, 26,000 secondary schools, 1,900 institutions of higher education, 6,000 hospitals, and 123,000 civil defense units use surplus property on a continuing basis.

Recommendation

The Department of Health, Education, and Welfare should take all possible steps to insure that all potentially useful and needed surplus personal property items when available are systematically screened and full information developed and disseminated thereon, to insure that they may be put to good use. The Department of Health, Education, and Welfare should also review allocation procedures to assure equity of distribution as between States.

It is also recommended that the responsible executive agencies constantly check eligibility standards, allocation procedures, and use of surplus personal property to assure compliance with the applicable laws and regulations.

Conclusion

2. The amount of common use property declared surplus is decreasing as the Department of Defense, which generates over 90 percent improves its common supply management practices and the General Services Administration increases transfers for Federal purposes.

The increasing needs by the present 254,000 education, health, and civil defense donees simultaneously with the decreasing availability of common use items shows that the inclusion of more categories of donees, for which there are 41 bills pending, would require the establishment of a system of preferences or priorities such as existed under the Surplus Property Act of 1944 (Public Law 457, 78th Cong.). This in turn would increase administrative costs and delay disposal actions while the preferences or priorities are being individually exercised.

The expansion of the program to other categories of donees would also dilute the amount of property available for present eligibles though Congress has considered them to be of the highest priority. There is considerable interest in legislation to permit the donation of surplus personal property to some types of educational institutions not now technically eligible—namely, educational TV, public libraries, and schools for mentally and physically handicapped.

Recommendation

New categories of donees should not be added to the donable program except after most mature consideration although this should not prevent reasonable expansion within existing categories of donees.

Conclusion

3. While the Congress has, by statute, authorized only three categories of eligible donees and neither the present nor the two preceding administrations has favored expansion of the program to

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other categories, executive agencies have constantly added other recipients, in effect, by administrative action. As a result much property though badly needed for purposes of education and health, either has been donated indirectly, or sold for replacement purposes or as a fringe benefit.

Recommendation

The subcommittee staff in cooperation with the Department of Health, Education, and Welfare should review the impact of transfers of personal property to other than currently eligible institutions and make recommendations for corrective action if deemed required.

Conclusion

4. The Department of Defense recently announced its intention of entering into a large-scale program under the so-called exchange-sale provision (sec. 201(c) of Public Law 81-152) whereby quantities of equipment from 69 different classes would be sold and the proceeds used for replacement of similar classes of items. The announced program of Department of Defense now temporarily deferred would have impaired the donable program by an estimated 40 percent.

Recommendation

Staff of the Subcommittee on Donable Property, in cooperation with the Department of Health, Education, and Welfare should (a) determine requirements of eligibles for automotive equipment, office equipment, and other items subject to exchange-sale procedure, and (b) obtain information as to the return to the Government of similar items when exchanged or sold and report findings to the subcommittee by January 1963.

Conclusion

5. The Federal Property and Administrative Services Act, Public Law 81-152, section 203(j)(1), provides that surplus personal property will be transferred to eligible donees without cost except for costs of care and handling. Most States levy a surcharge on transferred items to finance their costs of operation. The subcommittee had a study made of all direct and indirect costs of operating the program State by State. The costs vary considerably from 1.23 to 9.72 percent with an average of 3.78 percent.

Recommendation

The Department of Health, Education, and Welfare, as chief administrator of the donable program for purposes of education and health should take all necessary steps in cooperation with the States to keep direct and indirect cost of administration of the program at an optimum level. The study of costs of the program instituted by the subcommittee should be carefully analyzed by all States as a guide in reducing costs where they appear to be out of line.